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1
2 An act relating to homeowners' associations; providing
3 a short title; amending s. 720.303, F.S.; requiring
4 that notices for board meetings specifically identify
5 agenda items; requiring an association to maintain
6 designated addresses as official records; specifying
7 what constitutes a designated address; conforming
8 provisions to changes made by the act; prohibiting
9 certain funds from being commingled with other
10 association funds; authorizing a member to request an
11 accounting from an association under certain
12 circumstances; requiring an association to provide
13 such accounting and remit unused funds to the member
14 within specified timeframes; amending s. 720.3033,
15 F.S.; providing civil penalties for certain actions by
16 officers, directors, or managers of an association;
17 revising the circumstances under which a director or
18 an officer must be removed from office after being
19 charged by information or indictment; prohibiting such
20 officers and directors with pending criminal charges
21 from accessing the official records of any
22 association; providing an exception; requiring certain
23 directors and officers to make a specified disclosure;
24 specifying that the appointment of officers or
25 directors by a developer does not create a presumption

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26 of a conflict of interest for such officers or
 27 directors; requiring directors and officers of the
 28 association to disclose certain activity and
 29 relationships to the association within a specified
 30 timeframe; creating a rebuttable presumption of a
 31 conflict of interest if certain acts occur; amending
 32 s. 720.305, F.S.; restricting certain attorney fees
 33 and fines; specifying the types of violations for
 34 which an association may levy fines; specifying where
 35 certain notice must be delivered; providing
 36 requirements for such notice; authorizing parcel
 37 owners to attend certain hearings by telephone or
 38 other electronic means; requiring a specified notice
 39 after a hearing; conforming provisions to changes made
 40 by the act; creating s. 720.3065, F.S.; providing
 41 criminal penalties for certain fraudulent voting
 42 activities; providing an effective date.

44 Be It Enacted by the Legislature of the State of Florida:

46 Section 1. This act may be cited as the "Homeowners'
 47 Associations Bill of Rights."

48 Section 2. Paragraph (c) of subsection (2) and paragraph
 49 (g) of subsection (4) of section 720.303, Florida Statutes, are
 50 amended, and paragraph (d) is added to subsection (8) of that

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51 section, to read:

52 720.303 Association powers and duties; meetings of board;
 53 official records; budgets; financial reporting; association
 54 funds; recalls.—

55 (2) BOARD MEETINGS.—

56 (c) The bylaws shall provide the following for giving
 57 notice to parcel owners and members of all board meetings and,
 58 if they do not do so, shall be deemed to include the following:

59 1. Notices of all board meetings must specifically
 60 identify agenda items for the meetings and must be posted in a
 61 conspicuous place in the community at least 48 hours in advance
 62 of a meeting, except in an emergency. In the alternative, if
 63 notice is not posted in a conspicuous place in the community,
 64 notice of each board meeting must be mailed or delivered to each
 65 member at least 7 days before the meeting, except in an
 66 emergency. Notwithstanding this general notice requirement, for
 67 communities with more than 100 members, the association bylaws
 68 may provide for a reasonable alternative to posting or mailing
 69 of notice for each board meeting, including publication of
 70 notice, provision of a schedule of board meetings, or the
 71 conspicuous posting and repeated broadcasting of the notice on a
 72 closed-circuit cable television system serving the homeowners'
 73 association. However, if broadcast notice is used in lieu of a
 74 notice posted physically in the community, the notice must be
 75 broadcast at least four times every broadcast hour of each day

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76 | that a posted notice is otherwise required. When broadcast
77 | notice is provided, the notice and agenda must be broadcast in a
78 | manner and for a sufficient continuous length of time so as to
79 | allow an average reader to observe the notice and read and
80 | comprehend the entire content of the notice and the agenda. In
81 | addition to any of the authorized means of providing notice of a
82 | meeting of the board, the association may, by rule, adopt a
83 | procedure for conspicuously posting the meeting notice and the
84 | agenda on the association's website or an application that can
85 | be downloaded on a mobile device for at least the minimum period
86 | of time for which a notice of a meeting is also required to be
87 | physically posted on the association property. Any rule adopted
88 | must, in addition to other matters, include a requirement that
89 | the association send an electronic notice to members whose e-
90 | mail addresses are included in the association's official
91 | records in the same manner as is required for a notice of a
92 | meeting of the members. Such notice must include a hyperlink to
93 | the website or such mobile application on which the meeting
94 | notice is posted. The association may provide notice by
95 | electronic transmission in a manner authorized by law for
96 | meetings of the board of directors, committee meetings requiring
97 | notice under this section, and annual and special meetings of
98 | the members to any member who has provided a facsimile number or
99 | e-mail address to the association to be used for such purposes;
100 | however, a member must consent in writing to receiving notice by

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101 | electronic transmission.

102 | 2. An assessment may not be levied at a board meeting
 103 | unless the notice of the meeting includes a statement that
 104 | assessments will be considered and the nature of the
 105 | assessments. Written notice of any meeting at which special
 106 | assessments will be considered or at which amendments to rules
 107 | regarding parcel use will be considered must be mailed,
 108 | delivered, or electronically transmitted to the members and
 109 | parcel owners and posted conspicuously on the property or
 110 | broadcast on closed-circuit cable television not less than 14
 111 | days before the meeting.

112 | 3. Directors may not vote by proxy or by secret ballot at
 113 | board meetings, except that secret ballots may be used in the
 114 | election of officers. This subsection also applies to the
 115 | meetings of any committee or other similar body, when a final
 116 | decision will be made regarding the expenditure of association
 117 | funds, and to any body vested with the power to approve or
 118 | disapprove architectural decisions with respect to a specific
 119 | parcel of residential property owned by a member of the
 120 | community.

121 | (4) OFFICIAL RECORDS.—The association shall maintain each
 122 | of the following items, when applicable, which constitute the
 123 | official records of the association:

124 | (g) A current roster of all members and their designated
 125 | mailing addresses and parcel identifications. A member's

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126 designated mailing address is the member's property address,
 127 unless the member has sent written notice to the association
 128 requesting that a different mailing address be used for all
 129 required notices. The association shall also maintain the e-mail
 130 electronic mailing addresses and the facsimile numbers
 131 designated by members for receiving notice sent by electronic
 132 transmission of those members consenting to receive notice by
 133 electronic transmission. A member's e-mail address is the e-mail
 134 address the member provided when consenting in writing to
 135 receiving notice by electronic transmission, unless the member
 136 has sent written notice to the association requesting that a
 137 different e-mail address be used for all required notices. The
 138 e-mail ~~electronic mailing~~ addresses and facsimile numbers
 139 provided by members ~~unit owners~~ to receive notice by electronic
 140 transmission must ~~shall~~ be removed from association records when
 141 the member revokes consent to receive notice by electronic
 142 transmission ~~is revoked~~. However, the association is not liable
 143 for an erroneous disclosure of the e-mail ~~electronic mail~~
 144 address or the facsimile number for receiving electronic
 145 transmission of notices.

146 (8) ASSOCIATION FUNDS; COMMINGLING.—

147 (d) If an association collects a deposit from a member for
 148 any reason, including to pay for expenses that may be incurred
 149 as a result of construction on a member's parcel, such funds
 150 must be maintained separately and may not be commingled with any

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151 other association funds. Upon completion of the member's
 152 construction project or other reason for which the deposit was
 153 collected, the member may request an accounting from the
 154 association of his or her funds that were deposited, and the
 155 association must provide such accounting to the member within 7
 156 days after receiving the member's request. An association must
 157 remit payment of any unused funds to the member within 30 days
 158 after receiving notice that the member's construction project,
 159 or other reason for which the deposit was collected, is
 160 complete.

161 Section 3. Subsections (3) and (4) of section 720.3033,
 162 Florida Statutes, are amended, and subsection (6) is added to
 163 that section, to read:

164 720.3033 Officers and directors.—

165 (3) An officer, a director, or a manager may not solicit,
 166 offer to accept, or accept any thing ~~good~~ or service of value
 167 for which consideration has not been provided for his or her
 168 benefit or for the benefit of a member of his or her immediate
 169 family from any person providing or proposing to provide goods
 170 or services to the association. An officer, a director, or a
 171 manager who knowingly solicits, offers to accept, or accepts any
 172 thing or service of value or kickback for which consideration
 173 has not been provided for his or her own benefit or that of his
 174 or her immediate family from any person providing or proposing
 175 to provide goods or services to the association is subject to

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176 monetary damages under s. 617.0834. If the board finds that an
 177 officer or a director has violated this subsection, the board
 178 shall immediately remove the officer or director from office.
 179 The vacancy shall be filled according to law until the end of
 180 the officer's or director's term of office. However, an officer,
 181 a director, or a manager may accept food to be consumed at a
 182 business meeting with a value of less than \$25 per individual or
 183 a service or good received in connection with trade fairs or
 184 education programs.

185 (4) (a) A director or an officer charged by information or
 186 indictment with any of the following crimes must be removed from
 187 office:

188 1. Forgery of a ballot envelope or voting certificate used
 189 in a homeowners' association election as provided in s. 831.01.

190 2. Theft or embezzlement involving the association's funds
 191 or property as provided in s. 812.014.

192 3. Destruction of or the refusal to allow inspection or
 193 copying of an official record of a homeowners' association which
 194 is accessible to parcel owners within the time periods required
 195 by general law, in furtherance of any crime. Such act
 196 constitutes tampering with physical evidence as provided in s.
 197 918.13.

198 4. Obstruction of justice as provided in chapter 843.

199 ~~(b) a felony theft or embezzlement offense involving the~~
 200 ~~association's funds or property is removed from office. The~~

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201 board shall fill the vacancy as provided in s. 720.306(9)
 202 ~~according to general law~~ until the end of the period of the
 203 suspension or the end of the director's term of office,
 204 whichever occurs first. If such criminal charge is pending
 205 against the officer or director, he or she may not be appointed
 206 or elected to a position as an officer or a director of any
 207 association and may not have access to the official records of
 208 any association, except pursuant to a court order. However, if
 209 the charges are resolved without a finding of guilt or without
 210 acceptance of a plea of guilty or nolo contendere, the director
 211 or officer shall be reinstated for any remainder of his or her
 212 term of office. ~~A member who has such criminal charges pending~~
 213 ~~may not be appointed or elected to a position as a director or~~
 214 ~~officer.~~

215 (6) (a) Directors and officers of an association who are
 216 appointed by the developer must disclose to the association
 217 their relationship to the developer each calendar year in which
 218 they serve as a director or an officer. Directors and officers
 219 appointed by the developer must disclose any other activity that
 220 may reasonably be construed to be a conflict of interest
 221 pursuant to paragraph (b). A developer's appointment of an
 222 officer or director does not create a presumption that the
 223 officer or director has a conflict of interest with regard to
 224 the performance of his or her official duties.

225 (b) Directors and officers must disclose to the

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226 association any activity that may be reasonably construed to be
 227 a conflict of interest at least 14 days before voting on an
 228 issue or entering into a contract that is the subject of the
 229 conflict. A rebuttable presumption of a conflict of interest
 230 exists if any of the following acts occur without prior
 231 disclosure to the association:

232 1. A director or an officer, or a relative of a director
 233 or an officer, enters into a contract for goods or services with
 234 the association.

235 2. A director or an officer, or a relative of a director
 236 or an officer, holds an interest in a corporation, limited
 237 liability company, partnership, limited liability partnership,
 238 or other business entity that conducts business with the
 239 association or proposes to enter into a contract or other
 240 transaction with the association.

241 Section 4. Subsections (1), (2), and (5) of section
 242 720.305, Florida Statutes, are amended to read:

243 720.305 Obligations of members; remedies at law or in
 244 equity; levy of fines and suspension of use rights.—

245 (1) Each member and the member's tenants, guests, and
 246 invitees, and each association, are governed by, and must comply
 247 with, this chapter, the governing documents of the community,
 248 and the rules of the association. Actions at law or in equity,
 249 or both, to redress alleged failure or refusal to comply with
 250 these provisions may be brought by the association or by any

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251 member against:

252 (a) The association;

253 (b) A member;

254 (c) Any director or officer of an association who

255 willfully and knowingly fails to comply with these provisions;

256 and

257 (d) Any tenants, guests, or invitees occupying a parcel or

258 using the common areas.

259

260 The prevailing party in any such litigation is entitled to

261 recover reasonable attorney fees and costs as provided in

262 paragraph (2)(e). A member prevailing in an action between the

263 association and the member under this section, in addition to

264 recovering his or her reasonable attorney fees, may recover

265 additional amounts as determined by the court to be necessary to

266 reimburse the member for his or her share of assessments levied

267 by the association to fund its expenses of the litigation. This

268 relief does not exclude other remedies provided by law. This

269 section does not deprive any person of any other available right

270 or remedy.

271 (2) An association may levy reasonable fines for

272 violations of the declaration, association bylaws, or reasonable

273 rules of the association. A fine may not exceed \$100 per

274 violation against any member or any member's tenant, guest, or

275 invitee for the failure of the owner of the parcel or its

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276 occupant, licensee, or invitee to comply with any provision of
277 the declaration, the association bylaws, or reasonable rules of
278 the association unless otherwise provided in the governing
279 documents. A fine may be levied by the board for each day of a
280 continuing violation, with a single notice and opportunity for
281 hearing, except that the fine may not exceed \$1,000 in the
282 aggregate unless otherwise provided in the governing documents.
283 A fine of less than \$1,000 may not become a lien against a
284 parcel. In any action to recover a fine, the prevailing party is
285 entitled to reasonable attorney fees and costs from the
286 nonprevailing party as determined by the court.

287 (a) An association may suspend, for a reasonable period of
288 time, the right of a member, or a member's tenant, guest, or
289 invitee, to use common areas and facilities for the failure of
290 the owner of the parcel or its occupant, licensee, or invitee to
291 comply with any provision of the declaration, the association
292 bylaws, or reasonable rules of the association. This paragraph
293 does not apply to that portion of common areas used to provide
294 access or utility services to the parcel. A suspension may not
295 prohibit an owner or tenant of a parcel from having vehicular
296 and pedestrian ingress to and egress from the parcel, including,
297 but not limited to, the right to park.

298 (b) A fine or suspension levied by the board of
299 administration may not be imposed unless the board first
300 provides at least 14 days' notice to the parcel owner at his or

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301 her designated mailing or e-mail address in the association's
302 official records and, if applicable, any occupant, licensee, or
303 invitee of the parcel owner, sought to be fined or suspended and
304 ~~an opportunity for~~ a hearing before a committee of at least
305 three members appointed by the board who are not officers,
306 directors, or employees of the association, or the spouse,
307 parent, child, brother, or sister of an officer, director, or
308 employee. The notice must include a description of the alleged
309 violation, the specific action required to cure such violation,
310 if applicable, and the date and location of the hearing. A
311 parcel owner has the right to attend a hearing by telephone or
312 other electronic means.

313 (c) If the committee, by majority vote, does not approve a
314 proposed fine or suspension, the proposed fine or suspension may
315 not be imposed. The role of the committee is limited to
316 determining whether to confirm or reject the fine or suspension
317 levied by the board.

318 (d) After the hearing, the committee shall provide written
319 notice to the parcel owner at his or her designated mailing or
320 e-mail address in the association's official records and, if
321 applicable, any occupant, licensee, or invitee of the parcel
322 owner, of the committee's findings related to the violation,
323 including any applicable fines or suspensions that the committee
324 approved or rejected, and how the parcel owner or any occupant,
325 licensee, or invitee of the parcel owner may cure the violation,

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326 if applicable.

327 (e) If the proposed fine or suspension levied by the board
 328 is approved by the committee by a majority vote, the fine
 329 payment is due 5 days after notice of the approved fine required
 330 under paragraph (d) is provided to the parcel owner and, if
 331 applicable, to any occupant, licensee, or invitee of the parcel
 332 owner. The association must provide written notice of such fine
 333 or suspension by mail or hand delivery to the parcel owner and,
 334 if applicable, to any occupant, licensee, or invitee of the
 335 parcel owner.

336 (5) All suspensions imposed under ~~pursuant to~~ subsection
 337 (3) or subsection (4) must be approved at a properly noticed
 338 board meeting. Upon approval, the board association ~~must~~ send
 339 written notice to notify the parcel owner and, if applicable,
 340 the parcel's occupant, licensee, or invitee by mail or hand
 341 delivery to the parcel owner's designated mailing or e-mail
 342 address in the association's official records.

343 Section 5. Section 720.3065, Florida Statutes, is created
 344 to read:

345 720.3065 Fraudulent voting activities relating to
 346 association elections; penalties.—Each of the following acts is
 347 a fraudulent voting activity relating to association elections
 348 and constitutes a misdemeanor of the first degree, punishable as
 349 provided in s. 775.082 or s. 775.083:

350 (1) Willfully and falsely swearing to or affirming an oath

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351 or affirmation, or willfully procuring another person to falsely
352 swear to or affirm an oath or affirmation, in connection with or
353 arising out of voting activities.

354 (2) Perpetrating or attempting to perpetrate, or aiding in
355 the perpetration of, fraud in connection with a vote cast, to be
356 cast, or attempted to be cast.

357 (3) Preventing a member from voting or preventing a member
358 from voting as he or she intended by fraudulently changing or
359 attempting to change a ballot, ballot envelope, vote, or voting
360 certificate of the member.

361 (4) Menacing, threatening, or using bribery or any other
362 corruption to attempt, directly or indirectly, to influence,
363 deceive, or deter a member when the member is voting.

364 (5) Giving or promising, directly or indirectly, anything
365 of value to another member with the intent to buy the vote of
366 that member or another member or to corruptly influence that
367 member or another member in casting his or her vote. This
368 subsection does not apply to any food served which is to be
369 consumed at an election rally or a meeting or to any item of
370 nominal value which is used as an election advertisement,
371 including a campaign message designed to be worn by a member.

372 (6) Using or threatening to use, directly or indirectly,
373 force, violence, or intimidation or any tactic of coercion or
374 intimidation to induce or compel a member to vote or refrain
375 from voting in an election or on a particular ballot measure.

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376 | Section 6. This act shall take effect October 1, 2023. |